

This matter is before the Court upon plaintiff's motion to non-suit particular causes of action and dismiss Cliff Frana as a defendant [Doc. 47]. Plaintiff requests non-suit of all causes of action related to sexual harassment, negligent supervision, negligent retention, Restatement (2d) Agency §437, and civil conspiracy. These causes of action consist of ¶¶85-87, 96-98, 112-116, 117-122, 123-127, and 128-129 of the first amended complaint. Plaintiff states that the remaining causes of action are preserved and maintained, being those dealing with unlawful retaliation and wrongful discharge. Further, plaintiff moves for dismissal without prejudice as to defendant Cliff Frana, as plaintiff's allegations against him relate to sexual harassment, thereby removing him from the caption. Plaintiff has also moved the Court for permission to amend her complaint.

In response, defendants state that they do not generally object to the plaintiff's voluntary dismissal of the aforementioned claims, nor to the filing of an amended Complaint. However, defendants desire the dismissal of the subject claims be either dismissed with prejudice, or in the alternative, that defendants be awarded their reasonable costs and attorney's fees incurred in litigating plaintiff's sexual harassment claim up to the filing of her motion to non-suit. Additionally, defendants request permission to re-depose plaintiff to seek information pertaining to a "secret deal" between plaintiff and Cliff Frana, as well as new allegations in the proposed second amended complaint.

Plaintiff's motion to non-suit particular causes of action and to dismiss defendant Cliff Frana without prejudice is **GRANTED**. Plaintiff is permitted to file her proposed second amended complaint. Further, the Court reserves ruling on defendants' request for an award of reasonable costs and attorney's fees incurred in litigating plaintiff's sexual harassment claim up to the filing of her motion to non-suit, pending completion of the case, and defendant is permitted to re-depose plaintiff to seek alleged information pertaining to a "secret deal" between plaintiff and Cliff Frana, as well as to new allegations in the second amended complaint.

IT IS SO ORDERED.

ENTER:

s/Thomas W. Phillips

UNITED STATES DISTRICT JUDGE